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BEFORE THE ARIZONA CORPORATION COMMISSION
ARIZONA CORPORATION COMMISSION

JIM IRVIN
Chairman
TONY WEST
Commissioner
CARL J. KUNASEK
Commissioner

Mar 26 3 42 PM '99

Arizona Corporation Commission

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IN THE MATTER OF U S West COMMUNICATIONS, INC.'S COMPLIANCE WITH §271 OF THE TELECOMMUNICATIONS ACT OF 1996)))))	DOCKET NO. U-0000-97-238 NEXTLINK'S RESPONSE TO U S WEST'S MOTION TO COMPEL
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NEXTLINK Arizona, Inc. ("NEXTLINK") submits the following response to U S West Communication, Inc.'s ("U S WEST") motion to compel answers to its first set of data requests.

I. INTRODUCTION

On or about February 24, 1999, U S WEST served its first set of data requests upon NEXTLINK ("Data Requests"). On March 12, 1999, NEXTLINK then served its combined objections and answers to the Data Requests ("Response"). In those and earlier responses, NEXTLINK offered to meet and confer with U S WEST. On March 16, 1999, and without responding to NEXTLINK's offer, U S WEST filed a motion to compel ("Motion") against NEXTLINK and other intervening parties seeking to compel answers to all 41 of its Data Requests. On March 18, 1999, the Commission's Chief Hearing Officer ordered the parties to meet and confer regarding discovery on March 22, 1999. Counsel for NEXTLINK and U S WEST met and conferred by telephone on March 22, 1999.

As a result of that conference, NEXTLINK then served a set of supplemental responses to the Data Requests ("Supplemental Response")¹. In the Supplemental Response, NEXTLINK

¹ NEXTLINK attaches its Response and Supplemental Response hereto as Exhibit A.

has provided a complete answer to the following Data Requests: DR 29 and 40. Moreover, in the Supplemental Response, NEXTLINK has indicated that it will provide a substantive response to most of the remaining Data Requests.

NEXTLINK will respond and produce documents in response to DR 1 and 3 through 14 (complaints or problems relating to U S WEST's provision of 12 of the 14 competitive checklist items) to the extent such information relates to U S WEST's compliance with Section 271 of the Telecommunications Act of 1996 ("Act"). NEXTLINK has answered DR 2 (collocation with U S WEST) but will supplement it answer to identify the person with knowledge at U S WEST concerning the request. (Obviously, information U S WEST itself could have learned).

NEXTLINK has answered the first part of DR 16 but will confirm whether it has any information responsive to the second part of DR 16. As to DR 34 (Joint NEXTLINK/U S WEST OSS EDI development), NEXTLINK will answer whether it has contacted U S WEST regarding such development and then provide any documents or agreements relating to such developments, if any. (Again, information U S WEST already has.) As to DR 41 (documents relate to U S WEST impediments to NEXTLINK entry into local service in the U S WEST region), NEXTLINK will produce documents responsive to the data request as they become available. U S WEST and NEXTLINK have agreed to "Table" DR 35 and U S WEST has indicated it will provide a letter to NEXTLINK clarifying DR 22 based upon the discussions in the meet and confer session on March 22, 1999. NEXTLINK will then provide a response to that clarifying letter.

NEXTLINK will also provide a substantive but limited response to the Data Requests listed under the following five categories:

1. Information regarding NEXTLINK's operations support systems ("OSS") (DR 18 & 19).

2. Information regarding NEXTLINK's experiences with the electronic or graphical user interfaces of other incumbent local exchange carriers ("ILECS") (DR 23 & 25).
3. The ordering capacity and projections of NEXTLINK for local telecommunications services (DR 15, 17 & 36).
4. Performance measurements and standards regarding NEXTLINK's own network and facilities (DR 21, 26, 30, 31, 32).
5. NEXTLINK entry plans for local service (37 & 38)

NEXTLINK will not provide responses to the following additional data requests: DR 20, 24, 27, 28, 33 and 39. Each of these data requests, although not listed beneath one of the five categories set forth above, falls substantively within one of these descriptive categories.

In the Data Requests listed under the five categories describe above as well as in DR 20, 24, 27, 28, 33 and 39, U S WEST seeks information regarding the internal systems, procedures and business plans of NEXTLINK. But, as two other State regulatory commissions (Montana and New Mexico) have already concluded, the internal systems, procedures and business plans of NEXTLINK and other intervening parties are not relevant to a proceeding under Section 271 of the Act. This objection notwithstanding, NEXTLINK is prepared to answer the data requests listed under the five categories described above but with the scope of each answer rationally restricted to reflect NEXTLINK's experience with U S WEST primarily in Arizona. In this manner, the information NEXTLINK provides will assist the Commission in evaluating U S WEST's compliance with Section 271 of the Act for Arizona but, at the same time, respect the legitimate competitive and proprietary interests of NEXTLINK. But, for the reasons set forth in the Response, the Supplemental Response and this responsive memorandum, the Commission should sustain Nextlink's objections as to DR 20, 24, 27, 28, 33 and 39.

I. ARGUMENT

As an initial matter, it is important for this Commission to consider the state of NEXTLINK's local service offerings in Arizona. As the Commission knows, NEXTLINK only recently was granted its certificate of authority in Arizona and has only just begun to build facilities in the State. U S WEST, however, ignores these specific factual circumstances and simply lumps NEXTLINK together with all other carriers. In ruling on U S WEST's Motion, this Commission should not make the same error.

A. Montana and New Mexico Orders

The Montana and New Mexico Commissions considered and rejected attempts by U S WEST to obtain information regarding the internal plans, forecasts and systems of competitive local exchange carriers ("CLECs") such as NEXTLINK.² Each Commission emphasized that U S WEST is not entitled to elicit any information from competing carriers about their systems, internal practices (such as its OSS and performance standards or capacity), plans or experiences with other ILECs. The *New Mexico Order* in particular provides an extensive and detailed analysis of the issues and specifically rejects arguments nearly identical to those U S WEST advances in these proceedings.

For instance, in New Mexico, the Commission said: "The internal methods of the CLECS are not, however, at issue in this case."³ Furthermore, when U S WEST contended that if the CLECs are not in a position to take advantage of U S WEST's electronic interface (EDI) for

² *In Re: U S WEST's Compliance with Section 271(c) of the Telecommunications Act of 1996*, New Mexico State Corporation Commission, Dckt. 97-106-TC, Order Relating to Outstanding Discovery Motions, 9/21/98 ("*New Mexico Order*").; *In Re: U S WEST's Compliance with Section 271(c) of the Telecommunications Act of 1996*, Montana Public Service Commission, Dckt. D97.5.87, Notice of Commission Action on Discovery Objections, 6/26/98 ("*Montana Order*"). NEXTLINK understands that the Hearing Division has been given multiple copies of the *New Mexico Order* and the *Montana Order*, but would be happy to provide copies if that is not correct.

³ ¶43, *New Mexico Order*

OSS, then it is not obligated to provide the capability, the New Mexico Commission stated flatly “We disagree.”⁴ In so concluding the Commission reasoned:

Based on our reading of the federal act, our order in SCC Docket No. 96-411-TC, the Ameritech Michigan Order, and the Eighth Circuit’s decision in Iowa, we conclude that any internal matter such as how a CLEC currently initiates an order on its own system is of no relevance. It is U S WEST that has to satisfy the statutory requirement of showing that it has provided access to its operational support systems that is at least equal in quality to those levels at which it provides these services to itself. What the CLECs do in their own internal operations is not relevant to a Section 271 proceeding. *See Notice of Commission Action on Discovery Objections*, Docket No. D97/5/87 (Montana Public Service Commission) (June 26, 1998) [definition omitted] where in an almost identical proceeding the Montana Commission concluded that “[i]nformation of CLEC systems is not relevant to the issue of whether U S WEST has met the requirements of [Section] 271, nor is the information requested likely to lead to the discovery of relevant information.”⁵ (emphasis added)

* * *

Nondiscriminatory access is not defined in terms of providing no worse access to the operational support systems than a CLEC provides to itself. It is the BOC’s, not the CLEC’s system that is relevant. Since nondiscriminatory access to U S WEST’s OSS is the clear threshold test for discrimination, we find that data requests that seek information about how CLECs use their own OSS to serve their own retail customers to be irrelevant to the subject matter in the pending case. As the Montana commission correctly noted, “CLECs’ systems, process and practices do not have to meet the [Section] 271 standards and thus are not acceptable to serve as benchmarks for U S WEST’s performance.” [citation omitted]. Stated most simply, if a CLEC takes two months or two minutes to internally process an order on its own network is of no relevance to this proceeding. Rather, the legal test for nondiscrimination is whether access to U S WEST’s OSS is provided by U S WEST in a nondiscriminatory manner. We have reviewed the U S WEST discovery requests against the above described general standards and find that following requests are not likely to lead to the discovery of admissible evidence⁶(emphasis added).

In the *Montana Order*, the Montana Commission made the following similar rulings:

Most of the objections... relate to information about the CLECs’ internal systems and practices. Information about CLEC internal systems and practices is not relevant as a comparison as U S WEST contends. CLECs’ systems, processes and practices do not have to meet the § 271 standards and thus are not acceptable to serve as benchmarks for U S WEST’s performance. In addition, other regional Bell Operating Companies OSS systems and CLEC’s

⁴ ¶45, *New Mexico Order*

⁵ *Id.*, ¶47

⁶ *Id.*, ¶47

experience with them are not applicable at this time because the FCC has not accepted any of them.

Information about CLEC systems is not relevant to the issue whether U S WEST has met the requirements of § 271, nor is the information requested likely to lead to the discovery of relevant information. U S WEST must demonstrate that the checklist items are available as a practical and legal matter. Binding interconnection contracts support such availability on a legal matter; as a practical matter, U S WEST must show that it is ready to furnish the items in the quantities that competitors may *reasonably demand* and at an acceptable level of quality. U S WEST is not required to actually furnish or show that it can furnish forecasted demands. If it were, CLECs could inflate their forecasted levels and delay U S WEST's entry in the long distance market by doing so.⁷

These decisions notwithstanding, U S WEST urges this Commission to adopt the conclusion of the special master for the Nebraska Public Service Commission. However, the Nebraska special master both misunderstood and misstated the relevant inquiry the Federal Communications Commission ("FCC") has established regarding the status of competition in each state. The FCC did not conclude it would inquire into what competitors "are really planning to do". For purposes of compliance with "Track A" requirements, the FCC has stated that U S WEST must demonstrate that there are "competing providers" on the day its application is filed with the FCC.⁸ Moreover, for purpose of the public interest inquiry under Section 271(d)(3)(C), the FCC concluded that the relevant inquiry is whether "new entrants are actually offering competitive local telecommunications services [W]e believe that data on the nature and extent of actual local competition, as described above, are relevant, but not decisive, to our public interest inquiry,"⁹ (emphasis added). As noted above, NEXTLINK is not yet offering any local service in Arizona. Furthermore, given the central defect in the logic of the

⁷ p.2, *Montana Order*

⁸ *Application of Ameritech Michigan Pursuant to § 271 of the Communications Act of 1934, as amended, to Provide In-Region, Inter-LATA Services in Michigan*, FCC Docket No. 97-137, Memorandum Op. and Order (released 8/19/97) at ¶¶74-77 ("*Ameritech Michigan Order*").

⁹ ¶391, *Ameritech Michigan Order*

Nebraska’s special master’s opinion, this Commission may properly disregard the disposition of the order.

B. Individual Data Requests

NEXTLINK will respond to the specific claims of U S WEST that the five categories of data requests identified above have relevance to this proceeding. None of these requests have any relevance to this proceeding nor are they calculated to lead to the discovery of admissible evidence. But, as described in its Supplemental Response and below, NEXTLINK will provide a response that is rationally related to its experience with U S WEST in Arizona and, to the extent applicable, in U S WEST’s 14 state region.

1. Information about NEXTLINK’S OSS.
(DR 18 & 19)

U S WEST’s relevancy contention regarding NEXTLINK’s development of an OSS is identical to the contention it made in New Mexico. U S WEST contends “All of the information requested [in DR 18 & 19] is relevant because it goes to the question whether the Intervenors themselves, by their own standards, will be able to provide the OSSs necessary to connect to U S WEST’s interface.”¹⁰ The New Mexico Commission rejected this same contention. (DR 18, 19 and 20 are nearly identical in substance to U S WEST data requests propounded in New Mexico.) In specifically rejecting the relevance of these same data requests, the New Mexico Commission admonished U S WEST:

Once again, U S WEST misconstrues the focus of this Section 271 case. The issue in this proceeding is not the system used by the CLEC; rather, U S WEST must show that its OSS offers nondiscriminatory access to unbundled network elements and that the “OSS functions provided to competing carriers . . . are analogous to OSS functions that a BOC provides to itself in connection with retail service offerings.” *Ameritech Michigan* FCC 97-137 at ¶139. See also *Ameritech Michigan* FCC 97-137 at ¶141.¹¹

¹⁰ p. 12, U S WEST Supplemental Memorandum (“Memo”)

¹¹ ¶57, *New Mexico Order*

The Montana Commission reached an identical conclusion. CLEC “systems, processes and practices do not have to meet the Section 271 standards and thus are not acceptable to serve as benchmarks for U S WEST performance.”¹²

In light of these decisions, this Commission may legitimately sustain NEXTLINK’s objection that DR 18 and 19 do not seek information relevant to these proceedings. However, NEXTLINK will describe any real time OSS that it uses to interface with U S WEST only (DR 19) and describe any other order processes that it uses to interface with U S WEST (DR 18). Obviously, such functionality as it pertains to NEXTLINK’s internal ordering systems for retail customers or as between NEXTLINK and any other carrier, besides U S WEST, can tell nothing about the status or functionality of U S WEST’s OSS. Because any information regarding an OSS interface as between NEXTLINK and U S WEST would necessarily be applicable on a region-wide basis, NEXTLINK will not limit its response to Arizona.

DR 20 also falls within this category. But, for the reasons set forth above and in the Response, NEXTLINK will not provide information in response to this request.

**2. Information regarding NEXTLINK’s experiences with the electronic or graphical user interfaces of other incumbent local exchange carriers.
(DR 23 & 25)**

U S WEST appears to contend that information regarding NEXTLINK’s experience with other OSS systems or a human to computer interface of other carriers for purposes of processing orders will help it determine whether the U S WEST OSS interface complies with the Act. This contention is not valid. Whether another carrier can or has met the OSS needs of any CLEC does not tend to prove or disprove whether the OSS access U S WEST has proposed to offer competing carriers meets the requirements of the Act: “access that is equal to the level of access

¹² p. 2, *Montana Order*

that a BOC provides to itself, its customers or its affiliates, in terms of quality, accuracy and timeliness.”¹³

But, U S WEST exclaims “There must be some OSS that satisfies the Intervenor’s needs: U S WEST cannot be held to a theoretical standard of perfection that no ILEC in the world has been able to meet.”¹⁴ Contrary to this statement, the Act does not require or impose a theoretical standard of perfection. The statutory requirement, as articulated by the FCC and repeated by the New Mexico and Montana Commissions, is straightforward: nondiscriminatory access to its OSS – the same as U S WEST (not Bell Atlantic or SBC) gives itself. U S WEST knows the level of access it provides to itself or its affiliates and therefore must offer evidence as to whether the OSS access it provides to itself equals the level of OSS access it provides or offers to competing carriers. NEXTLINK’s experience with other carriers would not assist this Commission in determining whether the OSS access U S WEST provides to itself is equal to the level it offers competing carriers.

However, and in an effort to cooperate, NEXTLINK will identify any ILEC’s OSS that NEXTLINK believes satisfy the requirements of the Act and Section 271 (DR 23). And it will limit its response to DR 25 to identify only any ILEC that provides a GUI interface that similarly satisfies the Act and Section 271 for a particular network element or resold service. To provide, as DR 25 requests, information regarding any GUI interface NEXTLINK has used, is far too broad in scope.

¹³ ¶139, *Ameritech Michigan Order*

¹⁴ p. 16, Motion

**3. The ordering capacity and projections of NEXTLINK for local telecommunications service.
(DR 15, 17 & 36).**

U S WEST has requested that NEXTLINK provide information regarding its internal practices and plans regarding the ordering of various telecommunication facilities in connection with the provision of local service. U S WEST contends it needs this information in order to meet reasonably foreseeable demand for the particular telecommunications facilities. In these data requests, U S WEST seeks information regarding NEXTLINK's ordering capacity and order projections, if any. This information is not relevant. As the Montana Commission recognized in sustaining objections to similar data requests, U S WEST's obligation under the Act is to show that it is presently ready to furnish each checklist item in the quantities that competitors "may reasonably demand . . . at an acceptable level of quality."¹⁵ The number of orders that NEXTLINK can submit today provides no basis for determining the "quantities that competitors may reasonably demand."¹⁶ No competitor will gear up to begin making orders until an ILEC's systems are ready to accept them. Determining the quantities a competitor "may reasonably demand," therefore, requires an analysis of the kind of access that will allow competition to develop in the market. Current demand, or even forecasts of future demand, do not assist in this analysis and effect only the inadequacies of U S WEST's current systems.

Again, despite such legitimate objections, for DR 15 NEXTLINK will identify by category whether it has other sources only within Arizona to obtain the seven itemized elements. But, for competitive reasons and with U S WEST's agreement, NEXTLINK will not disclose the identity of such sources. The actual identify of these sources of is no importance. Moreover, as this proceeding relates only to whether U S WEST has satisfied the requirements of Section 271

¹⁵ p. 2, *Montana Order*; See also, *Ameritech Michigan Order* at ¶ 110.

¹⁶ p. 2, *Montana Order*

for Arizona, it will not provide such information in any other location. Likewise and for the same reasons, and with U S WEST's agreement, as to DR 17 and 36, NEXTLINK will limit its response to Arizona. Moreover, NEXTLINK will limit its response to DR 17 to whether it has any information regarding realistic estimates of projected demand absent the limitations of U S WEST's systems and facilities. If any NEXTLINK projections are so limited, they will tell this Commission nothing about the reasonably foreseeable demand if U S WEST's systems were competition ready under the standards of Section 271. As to DR 24, NEXTLINK believes it does not have information or documents with regard to U S WEST but will confirm that representation. For the reasons set forth above and in the Response, NEXTLINK will not provide information in response to DR 24 as to other ILECs.

**4. Performance measurements and standards regarding NEXTLINK's own network and facilities.
(DR 21, 26, 30, 31, 32)**

U S WEST contends that the performance standards or measures from CLECs may demonstrate that the competing carrier, not U S WEST, is the source of any delays or problems associated with the provisioning of telecommunication services from U S WEST to the customer of a competing carrier. U S WEST argues that if this turns out to be the case, the information would demonstrate that U S WEST's actions have not placed the competing carrier at a competitive disadvantage vis-a-vis that carrier's own customer. But, U S WEST concludes that if it has not taken any action in the provisioning of service to the customer of a competing carrier that would place the competing carrier at a competitive disadvantage then U S WEST can demonstrate that its process and procedures meet the Act's nondiscrimination standard. This argument is contrary to the access standards of the Act.

The FCC has explained the access requirement many times and the significance of a BOC's performance measures for purposes of demonstrating compliance with that standard. In the *Ameritech Michigan Order*, the FCC concluded that, "in order to provide [the FCC] with the appropriate empirical evidence upon which [the FCC] could determine whether Ameritech is providing nondiscriminatory access to OSS functions," Ameritech must provide a number of performance measures.¹⁷ The FCC also stated that, "In addition, Ameritech should ensure that its performance measures are clearly defined [and] permit comparisons with Ameritech's retail operations..."¹⁸ (emphasis added). One of the purposes of performance standards is to provide evidence of nondiscriminatory access to U S WEST's OSS. Performance measures, in general, are used to demonstrate that U S WEST is not discriminating against the CLECs in performing its obligations under the Act. So, for example, the FCC has defined the term "nondiscriminatory access" contained in Section 251(c)(3) as it pertains to network elements:

Accordingly, we conclude that the phrase "nondiscriminatory access" in section 251(c)(3) means at least two things: first, the quality of an unbundled network element that an incumbent LEC provides, as well as the access provided to that element, must be equal between all carriers requesting access to that element; second, where technically feasible, the access and unbundled network element provided by an incumbent LEC must be at least equal-in-quality to that which the incumbent LEC provides to itself.¹⁹

Even if one assumes *arguendo* that the performance standards and the measurement of service intervals of a competing carrier to its own customers are considerably worse than the standards and measures of U S WEST, this Commission would not be one step closer to knowing whether

¹⁷ ¶ 212, *Ameritech Michigan Order*

¹⁸ *Id.*

¹⁹ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, FCC 96-325 (rel. Aug. 8, 1996), ¶ 312 (footnote omitted).

in fact the access U S WEST provides to itself is equal in quality to the level of service it provides to a competing carrier.

At to DR 26, 30 and 31, in its Supplemental Response, NEXTLINK has stated that it will only determine whether it has any information pertaining to the specific performance measurements or standards sought that distinguishes between its own services and those it provides customers that depend upon the facilities of U S WEST. This is a legitimate restriction on the scope of each of these requests. As argued above, data as to NEXTLINK's activities unaffected by or unrelated to use of U S WEST's facilities have no significance.

As to DR 32, NEXTLINK has not tested its ability to properly project the local service requests it could place with U S WEST due to the limits of U S WEST systems. For this reason, it would not be appropriate to compel NEXTLINK to answer this request. NEXTLINK will, however, produce documents describing problems with placing orders specifically with U S WEST only. For the reasons discussed above, information as to the capacity of other carriers is not relevant. NEXTLINK will investigate whether it can answer DR 21.

DR 27 and 28 also fall within this category. But, for the reasons set forth above and in the Response and Supplemental Response, Nextlink will not provide information in response to these requests.

**5. NEXTLINK entry plans for local service.
(37 & 38)**

U S WEST asks in these data requests for NEXTLINK to provide information for entry into local markets. This kind of information, of course, is highly proprietary and NEXTLINK adamantly objects to providing this information at all. U S WEST is the monopoly provider and has the capacity to stand in the way of competition throughout its region. If competitors are

forced to reveal their plans, U S WEST will be better able to respond to any incursion into its local markets.

The Montana Commission determined that this kind of information has no relevance in a proceeding under Section 271. U S WEST contends that the information will assist it in meeting the requirements of “Track A,” along with the public interest requirement of Section 271. In fact, confidential plans for future entry have little, if any, relevance to either of these issues.

To meet the requirements of “Track A”, U S WEST must show that it has entered into one or more binding agreements to provide interconnection to a competing provider of facilities-based service to residential and business subscribers.²⁰ This requirement must be met at the time U S WEST makes its filing under Section 271. Future plans by competitors to enter U S WEST’s local markets simply have no relevance. An example demonstrates that the FCC places no weight or importance on the future plans of other carriers. In the *Second Louisiana BellSouth Order*²¹, the FCC concluded that BellSouth had failed to comply with “Track A” requirements because the only wireline carrier with which BellSouth had entered into a binding interconnection agreement was not currently provided both business and residential service. The wireline carrier (KMC) told the FCC that “it does not yet serve any residential customers on a facilities basis”.²² (emphasis added). In express reliance on that representation, the FCC concluded BellSouth had not established “Track A” compliance.

NEXTLINK’s proprietary plans for the future or in other states are also not relevant to the Commission’s public interest analysis. The public interest analysis focuses “on the status of

²⁰ 47 U.S.C. § 271(c)(1)(A).

²¹ *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region InterLATA Services in Louisiana*, CC Docket No. 98-121, Memorandum Opinion and Order, FCC 98-271 (rel. Oct. 13, 1998) (“*Second BellSouth Louisiana Order*”).

²² ¶47, *Second Louisiana BellSouth Order*

market-opening measures in the relevant local market.”²³ The FCC will be required to assess whether U S WEST has made available “all pro-competitive entry strategies” into its local markets.²⁴ One way of determining whether all entry strategies are available is to determine whether “new entrants are actually offering competitive local telecommunications services to different classes of customers . . . through a variety of arrangements . . .”.²⁵ (emphasis added). Plans to enter a market, however, are by their nature subject to change and cannot provide any reasoned basis for evaluating the actual status of competition in any market.

To the extent that there is any limited relevance to entry plans, requiring new entrants to respond to this kind of discovery will clearly discourage participation in these proceedings, especially for smaller or newer CLECs like NEXTLINK. Protective agreement or not, new entrants will think carefully about intervening in any Section 271 proceeding if the result of intervention will be to require a new entrant to reveal its entry strategy. This can only act to the detriment of the Commission by restricting the information that will be available to the Commission in evaluating U S WEST’s application.

For DR 37, NEXTLINK will provide information regarding only the categories but not quantities of unbundled network elements it will seek from U S WEST in Arizona only. U S WEST has agreed to this limitation and NEXTLINK is willing to provide this answer because it will disclose only publicly available information in a non-burdensome way. For the reasons indicated above, providing such information for areas outside Arizona would have no bearing upon the Commission’s ability to evaluate U S WEST’s compliance with Section 271 of the Act within Arizona. Moreover, to disclose such information as to other states or regions could impair NEXTLINK’s competitive position with no justification. Likewise, NEXTLINK’s answer to DR 38

²³ ¶ 385, *Ameritech Michigan Order*

²⁴ ¶ 387, *Ameritech Michigan Order*

will be limited to Arizona. Again, the mere general description of the likely future geographic scope of NEXTLINK's offering, though probative of nothing in this docket, will not be burdensome for NEXTLINK to provide and will be provided only to the extent it is already publicly known.

DR 33 and 39 also falls within this category. But, for the reasons set forth above and in the Response, Nextlink will not provide information in response to these requests.


III. CONCLUSION

In light of the foregoing, the Commission should deny the Motion and sustain Nextlink's objections to DR 20, 24, 27, 28, 33 and 39. Further, the Commission should deny the Motion and grant leave to NEXTLINK to restrict the scope of its answers to the other Data Requests listed under the five substantive categories set forth in the introduction in the manner described here and in its Supplemental Response.

DATED this 26th day of March 1999.

Respectfully submitted,

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²⁵ *Id.*

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EXHIBIT A

BEFORE THE ARIZONA CORPORATION COMMISSION

**IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S
COMPLIANCE WITH SECTION 271 OF
THE TELECOMMUNICATIONS ACT OF
1996**

Docket No. U-0000-97-238

**OBJECTIONS AND ANSWERS OF NEXTLINK ARIZONA, INC. TO U S WEST
COMMUNICATIONS, INC.'S FIRST SET OF DATA REQUESTS**

I. INTRODUCTION

U S WEST has requested this Commission to verify that it is in compliance with the requirements of Section 271 of the Telecommunications Act of 1996 (the "Act").

U S WEST has the burden of proof to demonstrate that all of these network elements, facilities, services, systems and procedures are available to allow competitive local exchange carriers to pursue local entry through interconnection, unbundled network elements, and resale. See In the Matter of Application by Ameritech Michigan, Inc. Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA services in Michigan, CC Docket No. 97-137, Memorandum Opinion and Order, FCC 97-137 (released August 19, 1997) at para. 44.

In this case, U S WEST has indicated it will file its application under 47 U.S.C. § 271(c)(1)(A), generally known as "Track A." This means that U S WEST must also demonstrate that competing carriers are presently offering local service exclusively or predominately over their own facilities. As NEXTLINK Arizona, Inc. ("NEXTLINK") is not yet offering local service in Arizona, U S WEST can not rely upon services provided

**OBJECTIONS OF NEXTLINK TO
U S WEST'S FIRST DATA REQUESTS**

by NEXTLINK in alleging that it has met Track A in Arizona. As a result, information about NEXTLINK's local service or other offerings in Arizona or elsewhere in U S WEST's region is not calculated to lead to the discovery of relevant information.

The Commission also has issued a procedural order governing discovery in this Docket. U S WEST has not attempted to tailor these discovery requests in response to that order, but should do so. In any event, NEXTLINK raises the following general objections to U S WEST's data requests. Rather than repeating its objections and unduly lengthening this response, NEXTLINK will refer to these general objections by number in responding to the specific data requests U S WEST has propounded and by raising additional objections as appropriate to specific data requests.

II. GENERAL OBJECTIONS

1. Relevance: NEXTLINK objects to U S WEST's data requests to the extent that they seek information that is not relevant to the task of evaluating U S WEST's compliance with requirements of Section 271 of the Act. Discovery is permitted under Arizona procedural rules only to obtain information relevant to the proceeding at issue. A.R. Civ. P. 26(b)(1). Much of what U S WEST seeks here is not calculated to lead to the discovery of relevant information. In particular, NEXTLINK objects to producing information regarding its entry activities outside of Arizona. U S WEST seeks a considerable amount of information that will not assist this Commission in determining whether U S WEST has complied with the competitive checklist and other Section 271 requirements.

a. NEXTLINK's Long Distance Practices.

A number of U S WEST's data requests relate to NEXTLINK's processes and procedures in serving long distance customers, which are irrelevant to evaluating U S WEST's compliance with the competitive checklist in Section 271 of the Act. For example, U S WEST asks NEXTLINK to provide performance standards and reports that NEXTLINK uses internally for providing products and services to its customers. U S WEST No. 30. The Commission is charged with reviewing U S WEST's compliance in opening its local markets, not NEXTLINK's procedures in providing long distance services.

b. NEXTLINK Local Entry Plans.

U S WEST has sought information regarding NEXTLINK's plans for entering local markets throughout its entire region and apparently elsewhere in the country. In addition to concerns raised by the proprietary nature of this information, which are discussed in more detail below, this kind of information has no relevance to this proceeding. As indicated above, U S WEST must meet the requirements of Track A based upon the status of competition at the time it makes its application. As NEXTLINK does not yet provide local service in Arizona, U S WEST has not and can not rely upon NEXTLINK's services in Arizona as evidence supporting its Track A application. Further, U S WEST cannot rely on NEXTLINK's, or any other CLEC's, future plans to prove it has currently met its obligations under the Act. NEXTLINK's plans, therefore, are not at issue here.

2. Proprietary Information: NEXTLINK objects to producing information that is confidential, proprietary, or constitutes a trade secret. When confidential information is

being sought, the burden is on the party seeking discovery to establish that the information is sufficiently relevant and necessary to their case to outweigh the harm disclosure would cause. See United States v. R. Enterprises, Inc., et al, 498 U.S. 292, 306 (1991). Information regarding NEXTLINK's long distance processes and local entry plans, as indicated above, lacks relevance. Even if such information were relevant, however, its relevance is so marginal and its competitive significance so high that NEXTLINK should not be required to produce it. Today, U S WEST could directly compete with NEXTLINK in long distance markets anywhere outside its region. As noted above, U S WEST seeks NEXTLINK's internal performance standards for providing products and services to its customers. This information is irrelevant to any determination whether U S WEST has met its obligations to open the local market to competition; however, this highly sensitive and proprietary information would be valuable to U S WEST in competing in the long distance market. The Commission should not permit U S WEST to use this proceeding as a fishing expedition to obtain competitive information.

3. Burdensome Requests: NEXTLINK objects to data requests that would require NEXTLINK to conduct special studies of procedures, processes, or analyses. As indicated above, the Commission must weigh the burden created by the request in light of U S WEST's need for the information requested. Data requests that would require a special study are unduly burdensome based upon the nature of the proceeding at issue.

4. Premature Requests: Much of the information sought by U S WEST is in its possession and requires investigation by NEXTLINK. U S WEST's data requests are

premature because NEXTLINK has not yet had the opportunity for discovery or investigation.

5. Information Already in U S WEST's Possession: Much of the information sought by U S WEST is already in its possession. NEXTLINK has no obligation to provide such information to U S WEST.

6. Attorney-Client and Work Product Privilege: In addition to these general objections, NEXTLINK objects to all of the data requests to the extent that they ask for material covered by the work product doctrine or the attorney-client privilege.

NEXTLINK also objects to U S WEST's general instructions, No. 10 and No. 17. General instruction No. 10, is overbroad in that it defines "possession, custody or control" as including "each or any person acting or purporting to act on behalf of NEXTLINK or any of its employees." General instruction No. 17 ("Each request is continuing in nature") goes beyond the requirements of Arizona's Rules of Civil Procedure. A.R. Civ. P. 26(e).

II. SPECIFIC OBJECTIONS

NEXTLINK makes the following specific objections to the data requests propounded by U S WEST:

REQUEST NO. 1:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of interconnection in accordance with the requirements of § 251(c)(2) and § 252(d)(1). Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of interconnection. This request also includes, but is not limited to, any

documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of interconnection. (Checklist Item No. 1)

RESPONSE:

Please see General Objections 1-5. The complaints regarding U S WEST's conduct have and will continue to arise in the future. NEXTLINK has not yet attempted to interconnect with U S WEST in Arizona. Much of the information necessary to answer this request is in the control of U S WEST. Notwithstanding and subject to these objections, NEXTLINK will continue to investigate this issue and supplement its response.

REQUEST NO. 2:

Please identify each U S WEST central office or other location in Arizona where NEXTLINK collocates or intends to collocate within the next 24 months. For each projected location where NEXTLINK intends to collocate with U S WEST within the next 24 months, state whether NEXTLINK intends to collocate physically or virtually, and produce all documents relating to these collocation plans. (Checklist Item No. 1)

RESPONSE:

Please see General Objections 1-5. Notwithstanding and subject to these objections, NEXTLINK states it has sent applications to U S WEST for the central offices in which NEXTLINK intends to collocate. As a result, U S WEST already possesses the information requested by this data request.

REQUEST NO. 3:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of non-discriminatory access to poles, ducts, conduits, and rights of way that

U S WEST owns or controls. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of poles, ducts, conduits, and rights of way. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of poles, ducts, conduits, and rights of way. (Checklist Item No. 3)

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states it is currently in the process of determining the available U S WEST conduit space in the Phoenix area. So far, NEXTLINK has found the U S WEST process to be unacceptable in regard to both the length of time U S WEST uses to process a request and the charges U S WEST seeks to impose merely to determine the availability of facilities. NEXTLINK is still compiling relevant information in response to this request and reserves the right to supplement its response at a later time.

REQUEST NO. 4:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of local loop transmission from the central office to the customer's premises, unbundled from local switching or other services. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of unbundled local loop transmission. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of local

loop transmission from the central office to the customer's premises, unbundled from local switching or other services. (Checklist Item No. 4)

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states that while it does not yet have experience with provisioning of unbundled loops with U S WEST in Arizona, U S WEST's region-wide processes and intervals for provisioning unbundled loops have generally been unacceptable. For example, U S WEST requires a minimum installation interval of 5 days for unbundled loops (which it often does not succeed in meeting) in comparison with their quicker standard retail installation interval for basic telephone service, which is approximately 3 days.

REQUEST NO. 5:

Describe each complaint, problem or concern you have relating to U S WEST's provisioning of local transport from the trunk side of the wireline local exchange carrier switch, unbundled from switching or other services. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of unbundled local transport. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of local transport from the trunk side of the wireline local exchange carrier switch, unbundled from switching or other services. (Checklist Item No. 5)

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states that while it has yet to obtain local transport from U S WEST in Arizona, it has found U S WEST's region-wide processes and intervals to be generally unacceptable because of problems with forecasting, blockage and delivery.

REQUEST NO. 6:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of local switching unbundled from transport, local loop transmission, or other services. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of unbundled local switching. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about [U S WEST' provisioning of local switching unbundled from transport, local loop transmission, or other services. (Checklist Item No. 6)

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states it has found U S WEST unwilling to provide certain switching functionality in its switches. Specifically, U S WEST has to date refused to enable AIN triggers within their switch to allow competitors to offer valuable services to consumers. U S WEST already has in its possession the testimony, briefings, and contract proposals of NEXTLINK that address these issues from an arbitration with NEXTLINK as well as from negotiations between the parties.

REQUEST NO. 7:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of nondiscriminatory access to 911 and E911 services. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of these services. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of 911 and E911 services. (Checklist Item No. 7(I))

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states it is investigating the issue and will provide any responses upon completion of its research.

REQUEST NO. 8:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of directory assistance services. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of these services. This requester also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of directory assistance services. (checklist Item No. 7(II))

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states it is researching the issue and will provide any responses upon completion of its research.

REQUEST NO. 9:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of operator call completion services. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of these services. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of operator call completion services.

(Checklist Item No. 7(III))

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states it is researching the issue and will provide any responses upon completion of its research.

REQUEST NO. 10:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of white pages directory listings for customers of other carriers' telephone exchange services. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of white pages directory listings. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or

analyses about U S WEST's provisioning of white pages directory listings for customers of other carriers' telephone exchange services.

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states U S WEST's requirement that competitors deal with its DEX affiliate places an unnecessary and inappropriate third party in what is rightly U S WEST's position. Insertion of DEX in this position is clearly an attempt on the part of U S WEST to attempt to avoid liability or responsibility associated with this critical function of providing basic service to consumers.

REQUEST NO. 11:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of nondiscriminatory access to databases and associated signaling necessary for call routing and call completion. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of databases and associated signaling. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of provisioning of nondiscriminatory access to databases and associated signaling necessary for call routing and call completion. (Checklist Item No. 10)

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states that U S WEST has refused to provide NEXTLINK with access to SS7 switching and databases in a way that permits NEXTLINK to maintain the same

reliability and quality of service for its customers as U S WEST is able to maintain for its own retail customers. U S WEST already has in its possession the testimony, briefings, and contract proposals of NEXTLINK that address these issues from an arbitration with NEXTLINK as well as from negotiations between the parties.

REQUEST NO. 12:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of interim and/or long-term number portability. Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of interim and/or long-term number portability. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of interim and/or long-term number portability. (Checklist Item No. 11)

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states that while it is still investigating this issue, NEXTLINK has found both U S WEST's provisioning of interim number portability and long-term number portability to be unacceptable, causing customers to deal with extended delays and out of service conditions. As NEXTLINK is still compiling information on this issue, it reserves the right to supplement its answer with the Commission.

REQUEST NO. 13:

Describe each complaint, problem, or concern you have relating to the availability from U S WEST of reciprocal compensation arrangements in accordance with the requirements of § 252(d)(2). Produce all documents reflecting or relating to any of these

complaints, problems, or concerns and all documents relating in any way to the reciprocal compensation arrangements that U S WEST provides.. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about the reciprocal arrangements that U S WEST provides or makes available. (Checklist Item No. 13)

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states that while it has yet to begin any reciprocal traffic arrangement with U S WEST in Arizona, NEXTLINK is currently attempting to receive compensation for traffic elsewhere from U S WEST and has not received it in the manner NEXTLINK has requested it because of U S WEST's region-wide policies and practices.

REQUEST NO. 14:

Describe each complaint, problem, or concern you have relating to U S WEST's provisioning of telecommunications services available for resale in accordance with the requirements of § 251(c)(4) and 252(d)(3). Produce all documents reflecting or relating to any of these complaints, problems, or concerns and all documents relating in any way to U S WEST's provisioning of telecommunication services available for resale. This request also includes, but is not limited to, any documents containing positive or favorable statements, comments, or analyses about U S WEST's provisioning of telecommunications services available for resale. (Checklist Item No. 14)

RESPONSE:

Same objections as Data Request No. 1. Without waiving these objections, NEXTLINK states it is researching the issue and will provide any responses upon completion of its research.

REQUEST NO. 15:

Please identify all entities other than U S WEST, including NEXTLINK itself, from which NEXTLINK has obtained, or can obtain, for use in Arizona or in any of the other 13 states in U S WEST's region any of the following elements, items, or services: (1) local loops; (2) network interface devices; (3) local switching; (4) interoffice transmission facilities; (5) vertical features; (6) directory assistance; and (7) operator services. Produce all documents that relate to your ability to obtain such elements, items or services for use in Arizona or in any of the other 13 states in U S WEST's region.

RESPONSE:

Please see General Objections 1, 2, 3 and 4. NEXTLINK also objects to this request as overbroad. Notwithstanding and subject to these objections, NEXTLINK states it has not obtained any of these elements from any other entity in the State of Arizona. To the extent the request addresses what NEXTLINK "can obtain", NEXTLINK objects to the request as vague and calling for speculation.

REQUEST NO. 16:

Please produce all documents reflecting, referring, or relating to any analysis by NEXTLINK concerning: (1) whether the quality of any local telecommunications service NEXTLINK provides in Arizona or in any of the other 13 states in U S WEST's region is or may be affected by the ability to obtain from U S WEST any of the elements, items, or

services listed in the preceding data request; and (2) whether the ability to obtain from U S WEST any of the elements, items, or services listed in the preceding data request is necessary for NEXTLINK to provide local telecommunications service in Arizona or in any of the other 13 states in U S WEST's region.

RESPONSE:

Please see General Objections 1, 2, 3 and 4. Furthermore, NEXTLINK objects to the term "analysis" as vague and ambiguous. Without waiving these objections, NEXTLINK states it is investigating the issue and will provide any responses upon completion of its research.

REQUEST NO. 17:

For Arizona and the other 13 states in U S WEST's region, please describe on a state-specific basis NEXTLINK's projected demand over the next 24 months for the following elements, items, and services that NEXTLINK expects to obtain from U S WEST: (1) interconnection; (2) access to poles, ducts, conduits, and rights of way; (3) local loop transmission from the central office to the customer's premises, unbundled from local switching or other services; (4) local transport from the trunk side of the wireline local exchange carrier switch, unbundled from switching or other services; (5) local switching unbundled from transport, local loop transmission, or other services; (6) vertical features; (8) access to 911 and E911 services; (8) directory assistance services; (9) operator call completion services; (10) white pages directory listings; (10) access to databases and associated signaling necessary for call routing and call completion; (11) interim and/or long-term number portability; (12) reciprocal compensation arrangements; and (13) telecommunications services available for resale.

Produce all documents that reflect, refer, or relate to NEXTLINK's projected demand for these elements, items and services.

RESPONSE:

Please see General Objections 1, 2, 3 and 4.

REQUEST NO. 18:

Does NEXTLINK have a real-time operational support system that NEXTLINK's service representatives use to place customer service requests, local service requests or any other requests that NEXTLINK uses to order local telecommunications products or services? If so, for Arizona and the other 13 states in U S WEST's region, provide the name of the system(s), the products and services the system(s) support(s), the date the system(s) was deployed, and the data, functional message, and transport protocols used for the system(s). Produce all documents that refer to, reflect or relate to the products and services the system(s) supports, the date the system(s) was deployed, and/or the data, functional message, and transport protocols used for the system(s).

RESPONSE:

Please see General Objections 1 and 2. NEXTLINK is not yet providing local service in Arizona. The request is also overbroad as it seeks information outside the U S WEST region. Without waiving these objections, NEXTLINK states it is investigating the issue and will provide any responses upon completion of its research.

REQUEST NO. 19:

If NEXTLINK does not have an ordering system of the type described in the previous data request, please state all mechanisms, manual and otherwise, it uses to support the negotiation and ordering process for its local exchange customers, and state

the functionality provided by each of the mechanisms. Produce all documents that describe, define, outline or otherwise explain these mechanisms, including but not limited to documents that describe or otherwise reflect the functionality that each mechanism provides.

RESPONSE:

Please see General Objections 1 and 2. The request is also overbroad as it seeks information outside the U S WEST region. Without waiving these objections, NEXTLINK states it is investigating the issue and will provide any responses upon completion of its research.

REQUEST NO. 20:

Does NEXTLINK follow any specific development, implementation, and testing guidelines when it develops OSS software for use in the local exchange market? If so, produce all documents containing the guidelines that NEXTLINK follows or, if the guidelines are not written, describe them.

RESPONSE:

Please see General Objections 1, 2 and 3. NEXTLINK also objects to this request as overbroad. Without waiving these objections, NEXTLINK states it is investigating the issue and will provide any responses upon completion of its research.

REQUEST NO. 21:

For Arizona and the other 13 states in U S WEST's region, please state whether NEXTLINK maintains any data relating to whether there have been errors in local service requests ("LSRs") or orders that NEXTLINK has submitted to U S WEST. If NEXTLINK maintains any such data, describe the nature of the information you

maintain, and produce all documents that reflect, refer, or relate to any occurrences of errors in LSRs or orders that NEXTLINK has submitted to U S WEST.

RESPONSE:

Please see General Objections 1, 3 and 4. Notwithstanding and subject to these objections, NEXTLINK states to the best of its knowledge, it has not submitted any LSR's with errors in Arizona. In any event, NEXTLINK does not routinely maintain this kind of data.

REQUEST NO. 22:

Identify each electronic interface NEXTLINK requires to provide local service in Arizona and the other 13 states in U S WEST's region for the purpose of obtaining access to U S WEST's pre-ordering, ordering, provisioning, billing, and maintenance and repair systems. For each interface that NEXTLINK identifies, please provide the following:

- (1) identify each interface that NEXTLINK believes is not available from U S WEST;
- (2) if the interface is available and NEXTLINK contends it is inadequate, describe in detail each concern that NEXTLINK has about the adequacy of U S WEST's interface;
- (3) the date NEXTLINK requires the interface to be made available from U S WEST for testing by NEXTLINK; and (4) when NEXTLINK intends to begin using the interface to provide local exchange service in Arizona and the other 13 states in U S WEST's region. Produce all documents that relate to any of the responses that NEXTLINK provides to this data request.

RESPONSE:

Please see General Objections 1, 3 and 4. NEXTLINK also objects to this request as overbroad. NEXTLINK does not yet provide local service in Arizona. Without

waiving these objections, NEXTLINK states it is investigating the issue and will provide any responses upon completion of its research.

REQUEST NO. 23:

If NEXTLINK contends that other ILECs are meeting any of NEXTLINK's electronic interface needs relating to local exchange service, unbundled network element, or any other aspect of local service, identify the ILEC(s), describe the system(s) or interface(s) the ILEC(s) is using, and provide the name of a contact person at the ILEC(s) who is familiar with the system. Produce all documents that discuss, describe, or otherwise explain and/or discuss the capabilities of any such system(s) or interface(s).

RESPONSE:

Please see General Objections 1, 2 and 3.

REQUEST NO. 24:

On average, how many electronic interface orders for some form of local exchange service has NEXTLINK placed with ILECs per day over the past year? Please provide a breakdown by state, ILEC, and order type of all electronic interface orders NEXTLINK has placed with ILECs during the past year. Produce all documents that demonstrate, reflect, or refer to the number and/or type of electronic interface orders for local exchange service that NEXTLINK has placed with ILECS in the past year, including but not limited to documents containing breakdowns of this information by state, ILEC, and order type.,

RESPONSE:

Please see General Objections 1, 2, 3 and 4.

REQUEST NO. 25:

Has NEXTLINK used any ILEC's graphical user interface ("GUI") or human-to-computer interface that supports local exchange service in any local telecommunications market in the United States in the past 24 months? If so, please identify each interface NEXTLINK has used, the ILEC who provides the interface, and the market in which NEXTLINK used the interface. If NEXTLINK has used a GUI or human-to-computer interface within the past 24 months, produce all documents that discuss, describe or otherwise explain the interface(s) it has used, the ILEC who provides the interface(s), and/or the market in which NEXTLINK used the interfaces.

RESPONSE:

Please see General Objections 1, 3 and 4. Notwithstanding the foregoing objections, NEXTLINK states it has sought to use U S WEST's GUI interface elsewhere and assumes the GUI for Arizona is the same. NEXTLINK is investigating this issue and will provide any responses upon completion of its research.

REQUEST NO. 26:

For each facilities-based, local telecommunications service that NEXTLINK provides in any of the states in U S WEST's region, describe all provisioning commitments or representations that NEXTLINK gives to its customers, including but not limited to: (1) the average, anticipated time interval for installing the service; and (2) the average, anticipated amount of time the customer will be out of service to allow for a change of carriers through a loop cut-over. State whether the provisioning commitments or representations that NEXTLINK provides vary at all depending on whether NEXTLINK is using facilities provided by U S WEST or facilities provided by

some other source. Produce all documents that reflect, refer to, or relate to any provisioning commitments or representations that NEXTLINK provides to its customers for each such facilities-based, local telecommunications service that NEXTLINK provides in U S WEST's region.

RESPONSE:

Please see General Objections 1, 3 and 4.

REQUEST NO. 27:

Produce copies of all documents relating to presentations, marketing materials, sales efforts and related materials that NEXTLINK representatives use in their discussions with local exchange customers or in mass marketing of customers to promote or sell any local telecommunications service in U S WEST's region, including, but not limited to, written scripts and other prepared presentations.

RESPONSE:

Please see General Objections 1, 2 and 3.

REQUEST NO. 28:

Please state whether NEXTLINK measures or tracks in any way the time per call that its local service sales and marketing representatives spend on the telephone with customers to promote or sell NEXTLINK's local telecommunications services and to arrange for provisioning services. If NEXTLINK does measure or track the time for these calls, describe the nature of the information it records, and produce all documents that contain, refer, or relate to data of this type for all states in U S WEST's region.

RESPONSE:

Please see General Objections 1, 2 and 3.

REQUEST NO. 29:

Please state the hours of operation for NEXTLINK's local exchange units or offices in Arizona and in the other 13 states in U S WEST's region, and produce documents that show the hours of operations for these units of offices.

RESPONSE:

Please see General Objections 1, 2 and 3.

REQUEST NO. 30:

Please provide the following information for all states in U S WEST's region for all local telecommunications services that NEXTLINK provides using only its own facilities: (1) the percentage of customer commitments met for provisioning and repairs; (2) the percentage of held orders; (3) the percentages of network blockage that NEXTLINK is experiencing, both in its network and outside of its network; and (4) the average repair intervals. Please provide the same information requested above for all states in U S WEST's region for all local telecommunications services that NEXTLINK provides using any facilities provided by U S WEST. Produce all documents that contain, refer, or relate to any such performance results for both instances where NEXTLINK uses U S WEST's facilities and instances where it uses exclusively its own facilities for Arizona and the other 13 states in U S WEST's region.

RESPONSE:

Please see General Objections 1, 2 and 3. NEXTLINK also objects to this request as overbroad.

REQUEST NO. 31:

Within U S WEST's region, does NEXTLINK measure or track the frequency with which its local service sales and marketing representatives contact local exchange customers who have pending orders to notify them of the receipt of or changes to: (1) order rejection notices; (2) firm order confirmation notices; (3) completion notices; and (4) jeopardy notices? If NEXTLINK does measure or track this information, describe the nature of the information it records, and produce all documents that contain, refer, or relate to data of this type for all states in U S WEST's region. In addition, please produce any documents that reflect NEXTLINK's policies and procedures data for informing its local exchange customers of receipt of or changes to the notices listed in this data request and/or summarizes, discusses or otherwise explains such performance data.

RESPONSE:

Please see General Objections 1, 2 and 3.

REQUEST NO. 32:

On a sustained basis, without the use of temporary support from other groups within NEXTLINK, what is the absolute number of local service requests and orders that NEXTLINK is presently capable of issuing, by interface type, on a business day basis (e.g., LSRs and orders per business day)? Please provide an attestation of the individual that is furnishing this information, and produce all documents that support, refer, or relate to the number of LSRs and orders that NEXTLINK is capable of issuing per business day.

RESPONSE:

Please see General Objections 1, 2 and 3. NEXTLINK also objects to this request as overbroad. As NEXTLINK is not yet prepared to offer service in Arizona, there is no relevant information in Arizona. However, in other U S WEST states, NEXTLINK has been repeatedly constrained in the amount of orders that are placed with U S WEST due to delays and problems in U S WEST's systems. Due to this, NEXTLINK has not been able to determine the actual limits of the number of request or orders it could place.

REQUEST NO. 33:

For Arizona and the other 13 states in U S WEST's region, please provide: (1) the projected number of local service requests and orders per business day that NEXTLINK expects to place with U S WEST, by interface type, over the next 24 months; and (2) the total projected demand from NEXTLINK for all pre-order transactions, by quarter, over the next 24 months. Produce all documents that reflect, support, or relate to these projections.

RESPONSE:

Please see General Objections 1, 2 and 3. NEXTLINK also objects that the request calls for speculation.

REQUEST NO. 34:

Does NEXTLINK intend to commit, in association with U S WEST, to the development and/or availability of a production-ready OSS EDI for pre-ordering, ordering, and maintenance and repair for residential POTS and small business? If so, when? If not, why not? Produce all documents that discuss, refer, or relate to any consideration by NEXTLINK of whether to, and/or when to develop an OSS EDI

interface in association with U S WEST, including, but not limited to, documents relating to NEXTLINK's decision in the past to terminate or suspend this type of development with U S WEST.

RESPONSE:

Please see General Objections 2 and 4. This data request also asks for material protected by the work product doctrine or attorney-client privilege. Without waiving these objections, NEXTLINK states it is investigating the issue and will provide any responses upon completion of its research. Nevertheless, NEXTLINK believes that U S WEST should develop OSS, including EDI interfaces, that comply with the standards set by the Federal Communications Commission and other standards organizations. NEXTLINK is currently developing its own OSS which will comply with such standards.

REQUEST NO. 35:

For each state in U S WEST's region, please provide the number of orders for facilities-based services that NEXTLINK has submitted to any ILEC: (1) by any means, manual or otherwise, within the past year; and (2) through an electronic interface within the past year. Produce all documents that show the number of orders that NEXTLINK has placed through these means within the past year.

RESPONSE:

Please see General Objections 1, 2 and 3.

REQUEST NO. 36:

For Arizona and the other 13 states in U S WEST's region, project the maximum number of NEXTLINK transactions U S WEST will be required to process on average,

per day for the functions of pre-ordering, ordering, billing, and maintenance and repair over the next 24 months. Describe in detail the basis for your response, and produce all documents that reflect or relate to these projected transactions.

RESPONSE:

Please see General Objections 1, 2 and 3. NEXTLINK also objects as this request is overbroad and calls for speculation.

REQUEST NO. 37:

Produce all documents concerning how (i.e., through its own facilities, unbundled network elements, resale, or combination), where, and when (if at all) NEXTLINK currently plans to become a local exchange provider in Arizona. IF NEXTLINK intends to become a facility-based provider in Arizona using unbundled network elements, identify the elements and the projected quantities you will need on a monthly basis from U S WEST for each of the next 24 months, and produce all documents that reflect, refer, or relate to these projected needs for use in Arizona during this period.

RESPONSE:

Please see General Objections 1, 2 and 3. NEXTLINK also objects to this request as overbroad. Without waiving these objections, U S WEST has in its possession information and documents from NEXTLINK's CLEC certification proceeding in Arizona, in which U S WEST was a participant.

REQUEST NO. 38:

Identify all towns, cities, and states in U S WEST's region in which you anticipate initiating local service within: (A) 90 days; (b) 180 days; (C) 1 year; (D) 2 years; (E) 5 years. Produce all documents that discuss, refer, or relate to the identities of the towns,

cities, and states in which you anticipate initiating local service within these time frames, including, but not limited to, all documents that reflect, refer, or relate to NEXTLINK's strategy for entering the local exchange markets in U S WEST's region by targeting select markets. This request specifically includes, but is not limited to, documents that reflect separation of cities, states, or portions of states into tiers of importance.

RESPONSE:

Please see General Objections 1, 2 and 3. NEXTLINK also objects to this request as overbroad.

REQUEST NO. 39:

Produce all documents created at any time from January 1, 1994, to the present that identify or discuss the states and cities where NEXTLINK has intended to serve as a local telecommunications provider, whether through resale or otherwise, including any and all documents that include rankings – by priority, importance, potential revenue or any other criteria – of states or cities for local market entry. This request includes, but is not limited to, any and all documents that reflect changes in the priority that NEXTLINK has given to states and cities for local market entry. This request specifically includes, but is not limited to, documents relating to NEXTLINK's plans for entering the local exchange markets in Connecticut or in any other state that discuss, refer, or relate to the entry of Southern New England Telephone Company ("SNET") and whether or not NEXTLINK's plans for entering Connecticut changed over time.

RESPONSE:

Please see General Objections 1, 2 and 3. NEXTLINK also objects to this request as overbroad. Notwithstanding these objections, NEXTLINK directs U S WEST to NEXTLINK's public filings with the SEC, which are equally available to U S WEST.

REQUEST NO. 40:

Produce any documents that discuss, refer, or relate to any analyses by NEXTLINK concerning how competition will change in Arizona's local and long distance markets if U S WEST is authorized to compete in the interLATA market in that state.

RESPONSE:

Please see General Objections 1, 2 and 3. NEXTLINK also objects to this request as overbroad. Further, NEXTLINK objects to the term "analyses" as vague and ambiguous.

REQUEST NO. 41:

If NEXTLINK contends that U S WEST is impeding in any way NEXTLINK's entry into the local exchange market in Arizona or in any of the other 13 states in U S WEST's region, produce all documents that support, refer, or relate to that contention.

RESPONSE:

Please see General Objections 1-5. NEXTLINK also objects to this request as overbroad. Notwithstanding and subject to these objections, NEXTLINK will provide a response concerning its experience in U S WEST's territory to the extent available after reasonable investigation.

DATED this ____ day of March, 1999.

Respectfully submitted,

By: _____

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Attorneys for NEXTLINK Arizona, Inc.

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE U S WEST)
COMMUNICATIONS, INC.'S)
COMPLIANCE WITH SECTION 271 OF) Docket No. U-0000-97-238
THE TELECOMMUNICATIONS ACT)
OF 1996)

**NEXTLINK'S SUPPLEMENTAL RESPONSES TO
U S WEST'S FIRST SET OF DATA REQUESTS
BASED UPON MEET AND CONFER**

NEXTLINK Arizona, Inc. ("NEXTLINK") hereby supplements its responses to U S WEST's first set of data requests based upon a "meet and confer" with U S WEST held on March 22, 1999. As noted further herein, NEXTLINK and U S WEST have agreed that NEXTLINK will continue to supplement its data responses as information and documents are located or otherwise made available. These supplemental responses are in addition to NEXTLINK's previously filed objections and responses and do not waive any of NEXTLINK's previously filed objections. Furthermore, NEXTLINK will not produce confidential or proprietary information until an appropriate protective order is entered in this Docket.

REQUEST NO. 1.

SUPPLEMENTAL ANSWER. NEXTLINK will provide information and documents relating to U S WEST's provisioning of interconnection to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or

documents relating to routine issues of interconnection in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 2.

SUPPLEMENTAL ANSWER. NEXTLINK has already identified the U S WEST central offices in Arizona where it seeks collocation and will identify the individual at U S WEST with knowledge of such information and relevant documents.

REQUEST NO. 3.

SUPPLEMENTAL ANSWER. NEXTLINK will respond and produce documents relating to U S WEST's provisioning of poles, ducts, conduits and rights of way to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 4.

SUPPLEMENTAL ANSWER. NEXTLINK will respond and produce documents relating to U S WEST's provisioning of local loops to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 5.

SUPPLEMENTAL ANSWER. NEXTLINK will respond and produce documents relating to U S WEST's provisioning of local transport to NEXTLINK to the extent such information or documents relate to U S WEST's compliance

with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 6.

SUPPLEMENTAL ANSWER. NEXTLINK will respond and produce documents relating to U S WEST's provisioning of local switching to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 7.

SUPPLEMENTAL ANSWER. NEXTLINK will respond and produce documents relating to U S WEST's provisioning of 911 or E911 to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 8.

SUPPLEMENTAL ANSWER. NEXTLINK will describe and produce documents relating to U S WEST's provisioning of directory assistance to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 9.

SUPPLEMENTAL ANSWER. NEXTLINK will describe and produce documents relating to U S WEST's provisioning of call completion services to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 10.

SUPPLEMENTAL ANSWER. NEXTLINK will describe and produce documents relating to U S WEST's provisioning of white pages listings to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 11.

SUPPLEMENTAL ANSWER. NEXTLINK will describe and produce documents relating to U S WEST's provisioning of access to databases or signaling to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 12.

SUPPLEMENTAL ANSWER. NEXTLINK will describe and produce documents relating to U S WEST's provisioning of number portability to

NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 13.

SUPPLEMENTAL ANSWER. NEXTLINK will describe and produce documents relating to reciprocal compensation to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 14.

SUPPLEMENTAL ANSWER. NEXTLINK will describe and produce documents relating to U S WEST's provisioning of resold services to NEXTLINK to the extent such information or documents relate to U S WEST's compliance with Section 271. NEXTLINK will not produce information or documents relating to routine issues in other jurisdictions that do not rise to that level of concern.

REQUEST NO. 15.

SUPPLEMENTAL ANSWER. Based upon the agreement in the "meet and confer," NEXTLINK will answer by category whether it has other sources in Arizona for the seven listed items other than U S WEST. In doing so, it will not identify any individual entities that actually provide any of the seven listed items.

REQUEST NO. 16.

SUPPLEMENTAL ANSWER. NEXTLINK does not believe it possesses any analysis as described in subpart (1), but will attempt to answer the question contained in subpart (2).

REQUEST NO. 17.

SUPPLEMENTAL ANSWER. Based upon the “meet and confer,” NEXTLINK will determine whether it has any information responsive to the request with regard only to Arizona and whether any such information provides a realistic estimate of what demand NEXTLINK would project absent the limitations of U S WEST's systems. No such information will be provided, however, until an appropriate protective order is entered.

REQUEST NO. 18.

SUPPLEMENTAL ANSWER. Based upon clarification during the “meet and confer,” NEXTLINK will describe any “real time operational support system” that it uses to interface with U S WEST for ordering purposes.

REQUEST NO. 19.

SUPPLEMENTAL ANSWER. Based upon clarification during the “meet and confer,” NEXTLINK will describe any other ordering processes that it uses to interface with U S WEST for ordering purposes.

REQUEST NO. 20.

SUPPLEMENTAL ANSWER. None.

REQUEST NO. 21.

SUPPLEMENTAL ANSWER. Based upon clarification during the “meet and confer,” NEXTLINK will investigate to determine whether it maintains any such data on a systematic basis.

REQUEST NO. 22.

SUPPLEMENTAL ANSWER. NEXTLINK understands U S WEST will be sending a clarifying letter with regard to this request and it will respond to that clarifying letter.

REQUEST NO. 23.

SUPPLEMENTAL ANSWER. NEXTLINK will identify any such ILEC.

REQUEST NO. 24.

SUPPLEMENTAL ANSWER. NEXTLINK believes it does not have such information or documents with regard to U S WEST, but will confirm that fact. Furthermore, U S WEST itself is better able to provide this information in the format sought by this request.

REQUEST NO. 25.

SUPPLEMENTAL ANSWER. NEXTLINK will identify any ILEC that provides a GUI interface that is satisfactory to NEXTLINK for a particular element or resale item.

REQUEST NO. 26.

SUPPLEMENTAL ANSWER. Based upon clarification during the “meet and confer,” NEXTLINK will determine whether it provides warranties or representations to its customers regarding the amount of time it will provision

facilities from U S WEST versus services provided exclusively on NEXTLINK's own facilities.

REQUEST NO. 27.

SUPPLEMENTAL ANSWER. None. NEXTLINK believes that the tangential relevance, if any, of such information is far outweighed by the burdensomeness and intrusiveness of this request.

REQUEST NO. 28.

SUPPLEMENTAL ANSWER. None. NEXTLINK believes that the tangential relevance, if any, of such information is far outweighed by the burdensomeness and intrusiveness of this request.

REQUEST NO. 29.

SUPPLEMENTAL ANSWER. Based upon clarification during the "meet and confer," NEXTLINK places orders at all times of the day and week because of the limitations of U S WEST's systems.

REQUEST NO. 30.

SUPPLEMENTAL ANSWER. Based upon clarification during the "meet and confer," NEXTLINK will answer whether it distinguishes in commitments to retail customers based on whether the service is exclusively provided on NEXTLINK's facilities versus using facilities from U S WEST.

REQUEST NO. 31.

SUPPLEMENTAL ANSWER. Based upon clarification during the "meet and confer," NEXTLINK will attempt to answer whether its sales and marketing representatives follow policies or procedures with regard to letting

retail customers know the status of their orders that depend upon delivery of U S WEST facilities.

REQUEST NO. 32.

SUPPLEMENTAL ANSWER. NEXTLINK will produce documents that describe problems with placing orders to U S WEST, but NEXTLINK believes that it has not tested the limits of how many orders it could place with U S WEST because of the limitations of U S WEST's systems.

REQUEST NO. 33.

SUPPLEMENTAL ANSWER. None.

REQUEST NO. 34.

SUPPLEMENTAL ANSWER. Based upon clarification during the "meet and confer," NEXTLINK will answer whether it has contacted U S WEST to jointly develop an OSS EDI and will produce documents regarding any contacts or agreements relating to the same.

REQUEST NO. 35.

SUPPLEMENTAL ANSWER. NEXTLINK and U S WEST have agreed to "table" this request for now.

REQUEST NO. 36.

SUPPLEMENTAL ANSWER. Based upon discussions during the "meet and confer," NEXTLINK will attempt to answer the request for Arizona only.

REQUEST NO. 37.

SUPPLEMENTAL ANSWER. Based upon clarification during the “meet and confer,” NEXTLINK will indicate by category, but not quantity, the unbundled network elements it will seek from U S WEST in Arizona.

REQUEST NO. 38.

SUPPLEMENTAL ANSWER. To the extent available and subject to a protective order to be entered in this docket, NEXTLINK will attempt to describe the likely geographic scope of its offerings in Arizona.

REQUEST NO. 39.

SUPPLEMENTAL ANSWER. None.

REQUEST NO. 40.

SUPPLEMENTAL ANSWER. NEXTLINK confirms that it does not have such documents.

REQUEST NO. 41.

SUPPLEMENTAL ANSWER. NEXTLINK will produce such documents as they become available.

DATED this ____ day of March, 1999.

By _____
Daniel M. Waggoner
Counsel for NEXTLINK
Arizona, Inc.